

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN

U.S.D.

JAN 19 2006

ESSEX INSURANCE COMPANY,

Plaintiff,

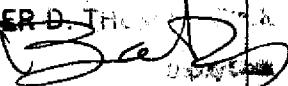
v.

HANKOOK TIRE AMERICA  
CORPORATION, AMWARE  
DISTRIBUTION WAREHOUSES OF  
GEORGIA, INC.,

Defendants.

CIVIL ACTION NO.

1:04-CV-2196-JEC

LUTHER D. THOMAS  
By: 

ORDER

This case is before the Court on the Motion for Default Judgment as to defendant Hankook Tire America Corporation by defendant<sup>1</sup> Amware Distribution Warehouses of Georgia, Inc. [41]. Defendant Hankook has filed an Affidavit [42] in opposition to Amware's motion.

In this Affidavit, counsel for Hankook agrees that Hankook has not filed an answer to the Counterclaim filed by Amware. Counsel affies that he was unaware that Anware had filed this Counterclaim until counsel received the motion for default judgment. Moreover, counsel affies that Hankook has meritorious defenses. In short, Hankook, through its counsel, asserts that it has met the three-prong

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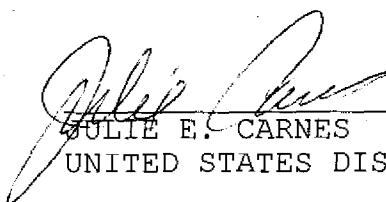
<sup>1</sup> Plaintiff Essex Insurance Company has been dismissed from the action. The only parties remaining are these two "defendants."

test recognized by the Eleventh Circuit in evaluating whether to vacate or deny a default judgment. That is, (1) Hankook has meritorious defense; (2) Amware will suffer no prejudice by a refusal to enter the default; and (3) there was a good reason for Hankook's failure to respond.

The Court deems Hankook's explanation for failure to respond to Amware's Counterclaim to be persuasive. Hence, the Court **DENIES** Amware's Motion For Default Judgment [41].

Hankook shall file an answer to the Counterclaim within **ten (10) days** of this Order. The parties shall file a revised Scheduling Order within **twenty (20) days**. The Clerk shall **resubmit** this action within twenty-one days of this Order.

SO ORDERED, this 19 day of January, 2006.



JULIE E. CARNES  
UNITED STATES DISTRICT JUDGE